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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	The Trustees of the Smith Trust Shane Smith and Karen Griffith		
Entity	Trust	Citizenship	United Kingdom
Address	24 Lock Keepers 117 Brunswick Quay London, SE16 7PW UNITED KINGDOM		
Attorney information	Renee S. Kraft Fredrikson & Byron, P.A. 200 South Sixth Street Suite 4000 Minneapolis, MN 55402 UNITED STATES ip@fredlaw.com Phone:612-492-7284		

**Registration Subject to Cancellation**

Registration No	3150462	Registration date	10/03/2006
Registrant	GOOGLE INC. 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043 UNITED STATES		
Goods/Services Subject to Cancellation	Class 038. First Use: 1998/01/20 , First Use In Commerce: 1998/01/20 Goods/Services: Communications services -- namely, transferring of electronic messages for groups of two or more people by means of a global computer network		

Attachments	GMAIL Petition to Cancel.pdf ( 4 pages )(302759 bytes )
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Signature	/Renee S. Kraft/
Name	Renee S. Kraft
Date	01/26/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE TRUSTEES OF THE SMITH TRUST	)	
SHANE SMITH AND KAREN GRIFFITH	)	
	)	
Petitioners,	)	<b>In the Matter of Trademark Reg.</b>
	)	<b>No. 3,150,462</b>
v.	)	
	)	<b>For the Mark: GMAIL</b>
GOOGLE INC.	)	
	)	<b>Registered: October 3, 2006</b>
Registrant.	)	
	)	

**PETITION FOR CANCELLATION**

Petitioners, The Trustees of the Smith Trust, Shane Smith and Karen Griffith, believe that they are or will be damaged by the above-identified registration, and hereby petition to cancel the same. As grounds for cancellation are as follows:

1. Petitioners offer a wide variety of services under the trademarks GMAIL and G-MAIL, including electronic mail services; communication services, namely company-to-company and company-to-customer either on a one-to-one or one-to-many user basis; delivery of text, graphics and data by electronic transmissions via a global computer network; providing, via e-mail, electronic newsletters in the field of investment research; and storage of electronic media, namely text, graphics and data.

2. Registrant, Google, Inc., owns Trademark Registration No. 3,150,462 for GMAIL used in connection with "communications services, namely, transferring of electronic messages for groups of two or more people by means of a global computer network." This registration has been cited by the United States Patent and Trademark Office as the basis for a Trademark Act Section 2(d) refusal of to of Petitioners' applications, namely, Serial No. 78/395,931 and Serial No.

78/424,012, both for use in connection with “electronic mail services; communication services, namely company-to-company and company-to-customer either on a one-to-one or one-to-many user basis; delivery of text, graphics and data by electronic transmissions via a global computer network; providing, via e-mail, electronic newsletters in the field of investment research; and storage of electronic media, namely text, graphics and data.” Thus, the mark is and will cause damage to Petitioners by, among other things, interfering with Petitioners’ right to use its GMAIL and G-MAIL marks in connection with the above-identified services.

3. Registrant initially filed an intent-to-use application for the mark GMAIL, Application Serial No. 78/398,233, for electronic mail services. The application received a filing date of April 7, 2004, which is four days after the filing date of Petitioners’ application for GMAIL, Application Serial No. 78/395,931. Registrant obtained ownership of the registration at issue through an assignment of Application Serial No. 78/395,746, which was filed on April 2, 2004, from the original applicant, Precision Research, Inc.

4. On information and belief, Precision Research, Inc. abandoned Application Serial No. 78/395,746, without intent to resume use, prior to its assignment of the same to Registrant.

5. On information and belief, Precision Research, Inc. was not using the mark GMAIL in commerce on April 2, 2004 on or in connection with Communications services, namely, transferring of electronic messages for groups of two or more people by means of a global computer network. Therefore, on information and belief, when Precision Research, Inc. submitted its application to the USPTO indicating that the mark was in use in commerce on April 2, 2004, such information was false. Upon information and belief, Precision Research, Inc. knew that such information was false at the time it submitted its application.

6. On information and belief, Precision Research, Inc. misrepresented the nature of its use in commerce of the alleged mark at the time it submitted its application and continued to prosecute the trademark application that led to the registration that is the subject of this petition. On information and belief, Precision Research, Inc. knowingly and willfully made false and/or fraudulent declarations or representations to the USPTO, including falsely alleging in a declaration under 37 C.F.R. §1(a) that it was using the mark in commerce as of the filing date of the application. Upon information and belief, said false statements were made with the intent to induce authorized agents of the USPTO to grant registration of the mark at issue, and reasonably relying on the truth of said false statements, the USPTO did grant said registration.

7. Petitioners are likely to be damaged by registration of Registrant's mark because the USPTO has refused Petitioners' application to register its G-MAIL and GMAIL trademarks identified above on the grounds that, under 37 C.F.R. §2(d), there is a likelihood of confusion between Petitioners' marks and Registrant's mark.

8. In view of the above allegations, Registrant is not entitled to registration of its alleged mark since, upon information and belief, the mark was abandoned prior to its assignment to Registrant and because, on information and belief, registration of the mark was procured based on the false or fraudulent statements of Precision Research, Inc.

**WHEREFORE**, Petitioner believes that it will be damaged by Registration No. 3,150,462 and prays that it be cancelled.

A check in the amount of \$300.00 is enclosed, as required under 37 C.F.R. § 2.6. If any other fees are required by this filing, they may be charged to deposit account number 061910.

Please address all communication to Renee S. Kraft, Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota, 55402-1425.

Dated: January 26, 2007

A handwritten signature in black ink, appearing to read "Renee Kraft", is written over a horizontal line.

Renee S. Kraft

Dean R. Karau

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